

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

C CHANGE SURGICAL LLC,	)	
	)	
Plaintiff,	)	
	)	<b>O-R-D-E-R</b>
v.	)	
	)	1:06CV785
MEDICAL SOLUTIONS, INC.,	)	
	)	
Respondent.	)	

This matter came back before the court in an unrecorded telephone conference held in Durham, North Carolina, on August 20, 2009, after prior notice to the attorneys for the parties. The conference was held to determine the renewed motion of Plaintiff C Change Surgical LLC to stay pending reexamination of the patents-in-suit (docket no. 38). At the conclusion of the conference, the court announced its decision that a limited stay will be entered. This writing memorializes that decision.

The renewed motion to stay will be granted until such time as the First Office Action in the United States Patent and Trademark Office on the ex parte reexamination requested by Plaintiff. Plaintiff will notify all parties and the court of that First Office Action in a separate filing which will have the First Office Action decision attached.<sup>1</sup> Once noticed of the First Office Action, the court will consider

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<sup>1</sup> First Office Action is explained in David L. McCombs & David M. O'Dell, *The New Role of Examination in Patent Litigation*, 2006 ADVANCED PATENT LAW INST., USPTO (Nov. 16-17, 2006).

extending the stay only upon further application by Plaintiff and only on a stipulation by Plaintiff similar to the stipulation entered by the court in *Antor Media Corp. v. Nokia, Inc.*, No. 2:05CV186 (E.D. Tex. Sept. 27, 2006) (unpublished). Absent further application by Plaintiff for extending the stay, the stay herein entered will expire on its own terms no later than 10 calendar days after the First Office Action.

In accordance with the foregoing, the Renewed Motion to Stay (docket no. 38) is **GRANTED** until such time as the First Office Action in the United States Patent and Trademark Office on the ex parte reexamination requested by Plaintiff.

A handwritten signature in black ink, appearing to read 'Wallace W. Dixon', is written over a horizontal line.

WALLACE W. DIXON  
United States Magistrate Judge

August 21, 2009